IN THE CLAIMS COMMISSION OF THE STATE OF TENNESSEE MIDDLE DIVISION

			FILED
PHILLIP M. MAXW Claimant,	(ELL,)	·	FEB 10 2010 Tennessee Claims Commission CLERK'S OFFICE
vs.)	Claim No. T20100118	1979 - 1971 - 19
STATE OF TENNES	SEE,)		175 m 177 m
Defendant.)		
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Currently pending before the Commission is the State's motion to dismiss this claim for lack of subject matter jurisdiction and failure to state a claim for relief. The claimant has not responded to the motion.

The complaint alleges that on October 24, 2008, Phillip Mason

Maxwell, a minor, was forcibly stopped by an officer with the Metro

Nashville Police Department as he was walking from school to his home

due to suspicion that he may have been involved in a break-in. Mr.

Maxwell alleges intentional arrest, illegal detainment, and violation of his

constitutional rights, for which he seeks money damages.

The State argues that the Commission lacks subject matter jurisdiction to consider claims based upon the acts or omission of persons

who are not "state employees" and that the claimant fails to state a claim for relief against the State based upon the actions of employees of the Metropolitan Government of Nashville and Davidson County.

Discussion

The State of Tennessee, as a sovereign, is immune from suit except as it consents to be sued. *Stewart v. State*, 33 S.W.3d 785, 790 (Tenn. 2000). In abrogation of its sovereign immunity, the State has conferred the Claims Commission with "exclusive jurisdiction to determine all monetary claims against the state based on the acts or omissions of "state employees," as such term is defined in § 8-42-101(3)...." Tenn. Code Ann. § 9-8-307(a)(1).

The definition of "state employee" includes "any person who is employed in the service of the state and whose compensation is payable by the state." Tenn. Code Ann. § 8-42-101(3)(A). Employees of the Metro Nashville Police Department are not employees of the State and the State has not waived its sovereign immunity for their acts or omissions under Tenn. Code Ann. § 9-8-307(a)(1).

The Claims Commission has no authority to hear claims arising from the acts of non-state employees, including employees of the Metropolitan Government of Nashville and Davidson County.

Because the Commission finds that there is no allegation of acts or omissions by state employees, the complaint falls outside of the Claims Commission's subject matter jurisdiction and the State's motion must be granted.

It is so **ORDERED** this the

了, 2010

STEPHANIE R. REEVERS Claims Commissioner

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document has been served upon the following parties of record:

STEPHANIE BERGMEYER Attorney General's Office P.O. Box 20207 Nashville, TN 37202-0207

PHILLIP M. MAXWELL P O Box 159199 Nashville, TN 37215

This 10 day of F. 2010.

Marsha Richeson, Administrative Clerk Tennessee Claims Commission